

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 6, 7, 21 and added new claims 26-29. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the examiner's indication that claims 22-24 would be allowable if put into independent form. Applicant directs the examiner's attention to the fact that claim 22 is an INDEPENDENT CLAIM and not a dependent claim.

Claims 1, 6, 7, 9-11, 21, 25 were rejected under sec. 102b as being anticipated by Achen which describes a "vent with security grate", title, which refers to a "conventional...screen...to discourage passage of insects and debris through the vent..." at column 3, lines 46-50. The subject invention has no "vent(s)" and no "screen(s)."

Subject independent claims 1 and 21 have been amended to include "a solid sheet and...a separate arthropod deterring component substance associated with said sheet for deterring crawling arthropods and impeding their route of travel along said passageway , wherein said sheet further eliminates air from passing through the passageway that is covered by the sheet..." The specification on page 3, lines 16-19, describe the sheet as having a "dual purpose..." Which "eliminates the infiltration of air or drafts that flows through..." the sheets. Page 5, lines 10-17, refers to the arthropod deterring component as a "substance." Clearly, Achen allows for air and drafts to infiltrate through their screen and vent, and does not anticipate nor render obvious the "solid sheet" of the subject invention with a "separate arthropod deterring component substance associated with said sheet..." as claimed in the subject application.

Subject claims 26-28, further define the “substances” to be a “pesticide”, and “slippery substance.” Clearly, Achen does not describe, teach, nor suggest all of the claimed features referenced above. Thus, removal of the Achen reference is respectfully requested.

Claims 2-5 were rejected under sec. 103 as being unpatentable over Achen. Applicant strongly disagrees with the statements that it “would have been an obvious design choice to make the sheet molded, extruded, pliable or stiff.....” without citing a specific reference that shows these statements to be accurate.

It is clearly improper for the examiner to arbitrarily ignore any of the novel features of any of the claims. Under the rules of the MPEP, if the applicant requests the examiner cite the reference(s) showing each and every one of the references that supports a rejection, the examiner must cite the reference or remove the rejection. Under MPEP 706.02 and 37 C.F.R. 1.107(b), applicant again requests the examiner specifically point out which uncited reference(s) describes and teaches these unsubstantiated opinions and assertions raised in the rejection that the features of CLAIMS 2-5 are obvious under sec. 103. Under the MPEP and CFR sections cited above, the examiner must cite the reference(s) that shows these unsubstantiated opinions and assertions mentioned in their rejection, or remove the 103 rejection for at least these reasons alone.

The remaining references cited but not applied to Sharples, Manak, Carman and Ritter, fail to overcome the deficiencies to Achen described above.

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art,

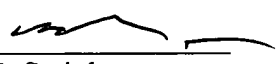
without the benefit of the inventor's specification to make the necessary changes in the reference device. Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

There is no teaching, nor suggestion for modifying Achen nor any of the other references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438(Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-7, 9-11, and 21-29 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the foregoing considerations, it is respectfully urged that claims 1-7, 9-11, and 21-29 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



Brian S. Steinberger
Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
Telephone: (321) 633-5080

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